

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

KEVIN STRODES

Petitioner,

-v-

**STUART HUDSON, Warden,
Mansfield Correctional Institution**

Respondent.

Case No. C-3:07-cv-476

**Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington**

**ENTRY AND ORDER OVERRULING STRODES' OBJECTIONS (Doc. #8)
TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #7) IN ITS ENTIRETY;
DENYING STRODES' PETITION TO VACATE OR SET ASIDE
SENTENCE; DENYING ANY REQUESTED CERTIFICATE OF
APPEALABILITY AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to Petitioner Kevin Strodes' ("Strodes'") Objections to Magistrate Judge Sharon L. Ovington's Report and Recommendations. The Report and Recommendations was entered on September 24, 2010. (Doc. #7.) On October 12, 2010, Strodes filed Objections to the Report and Recommendations and a Motion for Reconsideration. (Doc. 8.) The Motion for Reconsideration was overruled by Magistrate Judge Ovington. (Doc. #9.) The time has run and the Warden has not filed a response to Strodes' Objections to the Report and Recommendations. Strodes' Objections are, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Strode's Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and

Recommendations is adopted in its entirety.

Strodes' Petition To Vacate Or Set Aside Sentence is denied and dismissed in its entirety. Strodes' ineffective-assistance-of-appellate-counsel claims are procedurally defaulted. Further, Strodes' challenge of the constitutionality of his guilty plea is procedurally defaulted and fails on the merits. Also, since his guilty plea was knowingly and voluntarily made, Strodes' claim challenging the constitutionality of the trial court's decision on his motion to suppress must be dismissed.

Because reasonable jurists would not disagree with these conclusions and because the conclusions do not otherwise present issues adequate to deserve encouragement to proceed further, Strodes is denied any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and **ORDERED** in Dayton, Ohio, this Second Day of November, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record